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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/29/08  
 SPONSOR Gonzales LAST UPDATED 1/30/08 HB 311  
 SHORT TITLE Increase Gross Receipts & Send to School Fund SB \_\_\_\_\_  
 ANALYST Schardin

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY08	FY09	FY10		
38,019.4	\$260,095.2	\$269,003.1	Recurring	Public School Fund
(38,019.4)	(264.0)	(264.1)	Recurring	General Fund
	835.0	870.0	Recurring	Small Counties Assistance Fund
	835.0	870.0	Recurring	Small Cities Assistance Fund

(Parenthesis ( ) Indicate Revenue Decreases)

\*Table reflects combined effects of gross receipts and compensating tax changes. See Fiscal Implications for further detail.

Relates to HB241

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Public Education Department (PED)

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 311 would increase the state gross receipts tax rate and the compensating tax rate from the current level of 5 percent to 5.5 percent. The bill would also create a new distribution to the public school fund in an amount equal to 9.09 percent of state gross receipts tax and compensating tax collections, prior to any other distributions.

Provisions of the bill will become effective on July 1, 2008 (see Technical Issues).

## FISCAL IMPLICATIONS

The table below details calculations used to estimate the fiscal impact of the proposal.

### Gross Receipts Tax

Taxable gross receipts are expected to total \$8.1 billion in the last two months of FY08, \$50.6 billion in FY09, \$52.4 billion in FY10, \$54.2 billion in FY11 and \$56.2 billion in FY12. By increasing the gross receipts tax rate by 0.5 percent effective July 2008, the bill will increase gross receipts tax revenue by \$253.2 million in FY09, \$261.8 million in FY10, \$271.1 million in FY11, and \$280.9 million in FY12.

The bill would create a distribution of 9.09 percent of net receipts attributable to the gross receipts tax prior to any other distributions to the public school fund. The distribution will first affect revenue accrued to May 2008. After adjusting gross receipts tax collections for credits, that amount would be \$36.8 million for the last two months of FY08, \$251.7 million in FY09, \$260.3 million in FY10, \$269.6 million in FY11, and \$279.3 million in FY12.

The public school fund will receive 9.09 percent of net gross receipts tax revenues, which will total \$36.8 million in FY08, \$251.7 million in FY09, \$260.3 million in FY10, \$269.6 million in FY11, and \$279.3 million in FY12. Because the amount distributed to the public school fund is slightly lower than the revenue generated by increasing the gross receipts tax rate, the general fund will see a slight gross receipts tax revenue increase in FY09 and beyond. However, unless the bill is amended the general fund will lose \$36.8 million in FY08 because distributions to the public school fund will take effect two months before the tax rate increase is effective.

### Compensating Tax

Based on the December 2007 consensus revenue estimate, total receipts subject to the compensating tax will be \$266.7 million in the last two months of FY08, \$1.7 billion in FY09, \$1.7 billion in FY10, \$1.8 billion in FY11, and \$1.9 billion in FY12. By increasing the compensating tax rate 0.5 percent to 5.5 percent, the bill will increase revenue by \$8.4 million in FY09, \$8.7 million in FY10, \$9.1 million in FY11, and \$9.5 million in FY12.

Under House Bill 311, 9.09 percent of compensating tax revenue would go to the public school fund, and 10 percent would continue to go to both the small cities and small counties assistance funds. The general fund would receive the remainder of revenues. Unless the bill is amended to ensure the new distribution to the public school fund takes effect in the same month the tax rate increases, the bill will have a fiscal impact in FY08.

**HB311: Fiscal Impacts of Gross Receipts Tax Provisions (in thousands)**

	FY08 (2 months)	FY09	FY10	FY11	FY12
Current Law					
Taxable Gross Receipts	\$ 8,146,627.6	\$ 50,630,245.0	\$ 52,355,798.4	\$ 54,226,085.1	\$ 56,179,367.4
Credits	\$ 2,409.5	\$ 15,179.8	\$ 15,938.7	\$ 16,735.7	\$ 17,572.5
5% Tax Net of Credits	\$ 404,921.9	\$ 2,516,332.5	\$ 2,601,851.2	\$ 2,694,568.6	\$ 2,791,395.9
5.5% Tax Net of Credits		\$ 2,769,483.7	\$ 2,863,630.2	\$ 2,965,699.0	\$ 3,072,292.7
TOTAL INCREASE GRT REVENUE		\$ 253,151.2	\$ 261,779.0	\$ 271,130.4	\$ 280,896.8
9.09% of 5.5% Tax to Public School Fund	\$ 36,807.4	\$ 251,746.1	\$ 260,304.0	\$ 269,582.0	\$ 279,271.4
Revenue Change to General Fund	\$ (36,807.4)	\$ 1,405.2	\$ 1,475.0	\$ 1,548.4	\$ 1,625.4

**HB311: Fiscal Impact Estimate of Compensating Tax Provisions (in thousands)**

Current Law	FY08 (2 months)	FY09	FY10	FY11	FY12
Compensating Tax Base	\$ 266,666.7	\$ 1,670,000.0	\$ 1,740,000.0	\$ 1,815,000.0	\$ 1,892,500.0
Taxed at 5%	\$ 13,333.3	\$ 83,500.0	\$ 87,000.0	\$ 90,750.0	\$ 94,625.0
Public School Fund		\$ -	\$ -	\$ -	\$ -
80% General Fund	\$ 10,666.7	\$ 66,800.0	\$ 69,600.0	\$ 72,600.0	\$ 75,700.0
10% Small Counties	\$ 1,333.3	\$ 8,350.0	\$ 8,700.0	\$ 9,075.0	\$ 9,462.5
10% Small Cities	\$ 1,333.3	\$ 8,350.0	\$ 8,700.0	\$ 9,075.0	\$ 9,462.5
<b>HB311 Proposed</b>	<b>FY08 (2 months)</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>
Compensating Tax Base	\$ 266,666.7	\$ 1,670,000.0	\$ 1,740,000.0	\$ 1,815,000.0	\$ 1,892,500.0
Taxed at 5.5% (beginning FY09)	\$ 13,333.3	\$ 91,850.0	\$ 95,700.0	\$ 99,825.0	\$ 104,087.5
Public School Fund	\$ 1,212.0	\$ 8,349.2	\$ 8,699.1	\$ 9,074.1	\$ 9,461.6
80% General Fund	\$ 9,454.7	\$ 65,130.8	\$ 67,860.9	\$ 70,785.9	\$ 73,808.4
10% Small Counties	\$ 1,333.3	\$ 9,185.0	\$ 9,570.0	\$ 9,982.5	\$ 10,408.8
10% Small Cities	\$ 1,333.3	\$ 9,185.0	\$ 9,570.0	\$ 9,982.5	\$ 10,408.8
<b>Net Fiscal Impact</b>	<b>FY08 (2 months)</b>	<b>FY09</b>	<b>FY10</b>	<b>FY11</b>	<b>FY12</b>
Public Schools	\$ 1,212.0	\$ 8,349.2	\$ 8,699.1	\$ 9,074.1	\$ 9,461.6
80% General Fund	\$ (1,212.0)	\$ (1,669.2)	\$ (1,739.1)	\$ (1,814.1)	\$ (1,891.6)
10% Small Counties	\$ -	\$ 835.0	\$ 870.0	\$ 907.5	\$ 946.3
10% Small Cities	\$ -	\$ 835.0	\$ 870.0	\$ 907.5	\$ 946.3

**HB311: Total Change of Gross Receipts and Compensating Tax Provisions**

	FY08 (2 months)	FY09	FY10	FY11	FY12
Public School Fund	\$ 38,019.4	\$ 260,095.2	\$ 269,003.1	\$ 278,656.1	\$ 288,733.0
General Fund	\$ (38,019.4)	\$ (264.0)	\$ (264.1)	\$ (265.7)	\$ (266.1)
Small Cities	\$ -	\$ 835.0	\$ 870.0	\$ 907.5	\$ 946.3
Small Counties	\$ -	\$ 835.0	\$ 870.0	\$ 907.5	\$ 946.3

Sources: LFC Files, TRD, December 2007 Consensus Revenue Estimate.

**SIGNIFICANT ISSUES**

The 2007 funding formula study task force sponsored HB311 as a way of providing additional funding for a new public school funding formula.

This bill provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions, as earmarking reduces the ability of the legislature to establish spending priorities.

In addition to the current state gross receipts tax rate of 5 percent, New Mexico’s municipalities and counties are authorized to impose over 4 percent of local option gross receipts taxes (that figure excludes several additional local option taxes that have been authorized for selected local governments). Due to increasing imposition of local option taxes, the statewide gross receipts tax rate is increasing steadily. On average, a local option gross receipts tax of about 1.9 percent will be imposed by local governments statewide by FY09. Combined with the state gross receipts tax of 5 percent, the statewide tax rate is therefore 6.9 percent. This bill would increase the statewide gross receipts tax rate to 7.4 percent in FY09.

**ADMINISTRATIVE IMPLICATIONS**

Administrative impacts are expected to be minimal.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

House Bill 311 relates to House Bill 241, which provides for a new public school funding formula as well as maintenance and periodic recalibration of the formula.

**TECHNICAL ISSUES**

If the intent is to avoid a fiscal impact in FY08, the bill should be amended to state that distributions to the public school fund created in the bill apply to revenue earned on a modified accrual basis after June 30, 2008.

SS/mt:jp